

## **REMARKS**

Upon careful and complete consideration of the Office Action dated September 5, 2007, applicant has amended the claims which, when considered in conjunction with the comments herein below, are deemed to place the present application into condition for allowance. Favorable reconsideration of this application, as amended, is respectfully solicited.

The Office Action rejected claims 1-21 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-5 of U.S. Patent No. 7,041,995. Although applicant does not necessarily agree with the rejection, it has been decided to file a Terminal Disclaimer to advance the prosecution of the subject application. Accordingly, accompanying this response is a Terminal Disclaimer To Obviate A Double Patenting Rejection Over A "Prior" Patent executed by the undersigned attorney of record. As further required, accompanying the Terminal Disclaimer is a check for the Terminal disclaimer fee under 37 CFR 1.20(d).

Based on the filed Terminal Disclaimer, it is respectfully requested that the rejection of claims 1-21 based on U.S. Patent No. 7,041,995 be withdrawn.

The Office Action next rejected claims 1-14, 20 and 21 under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 6,548,570 to Lange (hereinafter referred to as "Lange"), in view of U.S. Patent No. 6,153,666 to Lagace (hereinafter referred to as "Lagace").

Before addressing the teachings of Lange and Lagace, applicant notes that claim 1 has been amended such that the composition of the lead substitute material now corresponds to that of original claim 3 and that amended and now independent claim 2 recites the composition of the lead substitute material claimed in original claim 4. Both original claims 3 and 4 have been canceled. Based on these amendments, it is respectfully submitted that the compositions of the lead substitute

material in accordance with the present invention are directed to specific compositions and now necessarily require the presence of bismuth.

Looking at Lange, it is noted that Lange fails to teach, apart from the working examples, any specific compositions of the disclosed radiation shielding material. Thus, Lange affords no assistance in deriving the compositions of the radiation shielding material other than the compositions set forth in the working examples. Further, in the working examples of Lange, Lange does not disclose the presence of bismuth, which, as indicated above, is now a mandatory feature of the present invention as set forth in claims 1 and 2. It is respectfully submitted that the skilled artisan reading Lange would never be lead to the specific compositions of the lead substitute material as claimed by the present invention. Still further, none of the working examples by Lange relate to silicone rubber, as rather natural rubber (NR) or other distinct polymers (SEBS/SBS) are employed.

Added to the above is the fact that the Office Action acknowledged the fact that Lange fails to teach a lead substitute material having a nominal overall lead equivalent of from 0.25 to 2.00 mm. In order to make up for this acknowledged deficiency of Lange, the Office Action relies on Lagace. What the Office Action has failed to recognize is that Lagace teaches neither the presence of bismuth nor the presence of tungsten in its disclosed formulations, including especially the part of Lagace cited by the Examiner (see column 4, lines 40 –61 of Lagace). Thus, the skilled artisan looking to both Lange and Lagace would arguably not include either bismuth or tungsten in its specific formulations. To do so, would be ignoring the teachings of either or both Lange and Lagace.

It is respectfully submitted that the Office Action is merely arriving at the claimed invention through its reliance on the subject application. It is respectfully submitted again that the

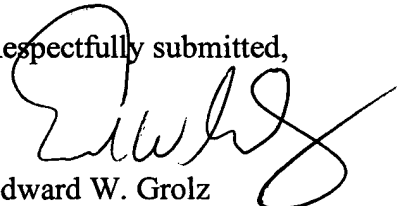
combination of Lange and Lagace could not reasonably result or lead the skilled artisan to the specific compositions of the lead substitute material as now claimed in accordance with the present invention.

Based on the amendments and the arguments submitted above, it is respectfully submitted that the claimed invention is not obvious in view of Lange and Lagace and the rejection of the claims based on this combination is respectfully requested to be withdrawn.

The Office Action further rejected claims 15-19 under 35 U.S.C. 103(a) as allegedly being unpatentable over Lange, in view of Lagace, and in further view of U.S. Patent No. 6,674,087 to Caldwellader (hereinafter referred to as "Caldwalader"). It is respectfully submitted that Caldwellader has only been mentioned by the Office Action with regard to the layered structure of the present lead substitute materials, which is only relevant to specific dependent claims. As such, and because Caldwellader does not overcome the deficiencies of Lange and Lagace discussed above, it is respectfully submitted that the rejected claims are non-obvious ver the cited art for the same reasons identified above. Consequently, the rejection of the claims 15-19 based on Lange, Lagace and Caldwellader is respectfully requested to be withdrawn as well.

Finally, it is further submitted that all the claims in the application as presently submitted contain patentable subject matter and a Notice of Allowance is earnestly solicited.

Respectfully submitted,



Edward W. Grolz  
Registration No. 33,705

Scully, Scott, Murphy, Presser, P.C.  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
(516) 742-4343  
EWG:me